

1 HON. MARSHA J. PECHMAN
2
3
4
5
6
7
8
9

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 INTERVAL LICENSING LLC,

11 Plaintiff,

12 v.

13 AOL, INC.,

14 Defendant.

15 Case No. 2:10-cv-01385-MJP

16 **JOINT STATUS REPORT**
17 **REQUESTING ALTERATIONS TO**
18 **SCHEDULE**

19 INTERVAL LICENSING LLC,

20 Plaintiff,

21 v.

22 APPLE, INC.,

23 Defendant.

24 CASE NO. C11-708-MJP

25 LEAD CASE NO. C10-1385-MJP

26 INTERVAL LICENSING LLC,

27 Plaintiff,

v.

EBAY INC.,

Defendant.

CASE NO. C11-709-MJP

LEAD CASE NO. C10-1385-MJP

JOINT STATUS REPORT
(2:10-cv-01385-MJP – LEAD CASE)

KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, OR 97204
Tel: (503) 595-5300; Fax: (503) 595-5301

1 INTERVAL LICENSING LLC,

2 Plaintiff,

3 v.

4 FACEBOOK, INC.,

5 Defendant.

CASE NO. C11-710-MJP

LEAD CASE NO. C10-1385-MJP

7 INTERVAL LICENSING LLC,

8 Plaintiff,

9 v.

10 GOOGLE, INC.,

11 Defendant.

CASE NO. C11-711-MJP

LEAD CASE NO. C10-1385-MJP

14 INTERVAL LICENSING LLC,

15 Plaintiff,

16 v.

17 NETFLIX, INC.,

18 Defendant.

CASE NO. C11-712-MJP

LEAD CASE NO. C10-1385-MJP

20 INTERVAL LICENSING LLC,

21 Plaintiff,

22 v.

24 OFFICE DEPOT, INC.,

25 Defendant.

CASE NO. C11-713-MJP

LEAD CASE NO. C10-1385-MJP

1 INTERVAL LICENSING LLC,

2 Plaintiff,

3 v.

4 OFFICEMAX, INC.,

5 Defendant.

CASE NO. C11-714-MJP

LEAD CASE NO. C10-1385-MJP

7 INTERVAL LICENSING LLC,

8 Plaintiff,

9 v.

10 STAPLES, INC.,

11 Defendant.

CASE NO. C11-715-MJP

LEAD CASE NO. C10-1385-MJP

13 INTERVAL LICENSING LLC,

14 Plaintiff,

15 v.

17 YAHOO! INC.,

18 Defendant.

CASE NO. C11-716-MJP

LEAD CASE NO. C10-1385-MJP

20 INTERVAL LICENSING LLC,

21 Plaintiff,

22 v.

23 YOUTUBE, INC.,

24 Defendant.

CASE NO. C11-717-MJP

LEAD CASE NO. C10-1385-MJP

1 The Court's Order of April 29, 2011 Granting Severance and Consolidating Cases [Dkt.
 2 No. 229] granted defendants' motions for severance but consolidated the eleven actions for all
 3 pretrial proceedings and for trial. The Court also ordered that the current scheduling order in this
 4 case (C10-1385-MJP, Dkt. No. 178) will govern all eleven actions, but instructed the parties to
 5 meet and confer and file a joint status report as to what dates in the current scheduling order need
 6 to be amended or altered. The parties have conferred and agreed that certain dates should be
 7 adjusted, and have set forth proposed amendments to the existing scheduling order.

8 There are two categories of adjustments proposed.

9 First, the date for opening expert reports falls on the Monday after the Thanksgiving
 10 holiday. In view of the holiday, the parties request a one week adjustment of that date, as well as
 11 adjustments to the related expert dates. These adjustments do not change any other dates.

12 Second, the Order of April 29, 2011, consolidated the actions for all purposes including
 13 trial, but noted that “[t]he Court does not make any binding determination as to how it will run
 14 the trials in this matter. That issue will be decided later.” Defendants each continue to object to
 15 consolidation for trial, and Interval continues to believe that consolidation for trial is appropriate.

16 The parties propose that issues relating to the structure of trial proceedings be addressed
 17 at the scheduled January 13, 2012 Status Conference, but the parties disagree on whether the
 18 existing trial dates should remain on the calendar in the interim.

19 Interval requests that all dates in the Scheduling Order, including the trial dates, remain in
 20 effect to preserve the trials on the Court's docket, which are currently scheduled in June and July
 21 2012. Removing the trial dates from the calendar would significantly increase the risk of
 22 delaying the trials, which would likely lead to increased costs for the parties and more work for
 23 the Court. The parties would meet and confer in advance of the January 13, 2012 Status
 24 Conference and submit a joint status report with suggested trial procedures by January 6, 2012.

25 Defendants request that the current dates for the for the Pretrial Order, the Pretrial
 26 Conferences, Trial Briefs, Voir Dire Questions, Proposed Jury Instructions, and Trial Exhibit

1 Lists, and Trials be removed from the current schedule. The parties would meet and confer in
 2 advance of the January 13, 2012 conference, and submit a joint status report with suggested trial
 3 procedures and proposed dates for these deadlines by January 6, 2012.

4 **Suggested Adjusted Deadlines**

5 Event	6 Scheduled Date	7 Suggested Adjusted Date
8 Opening Expert Reports on all issues	9 11/28/2011	12/05/2011
9 Rebuttal Expert Reports Due	10 12/30/2011	11/06/2012
10 Complete all Expert Discovery	11 01/13/2012	01/25/2012
11 Joint Status Report to address trial issues	12	01/06/2012

12 DATED this 16th day of May, 2011.

13 /s/ Matthew R. Berry (with permission)

14 Justin A. Nelson, WSBA No. 31864
 jnelson@susmangodfrey.com

15 Matthew R. Berry. WSBA No. 37364
 mberry@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1201 Third Avenue, Suite 3800
 Seattle, Washington 98101

16 Tel: (206) 516-3880
 Max L. Tribble, Jr. (*pro hac vice*)
 mtribble@susmangodfrey.com

17 SUSMAN GODFREY L.L.P.
 1000 Louisiana Street, Suite 5100
 Houston, Texas 77002
 Tel: (713) 651-9366

18 Oleg Elkhunovich (*pro hac vice*)
 oelkhunovich@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1901 Avenue of the Stars, Suite 950
 Los Angeles, California 90067
 Tel: (310) 789-3900

20 Michael F. Heim (*pro hac vice*)

21 mheim@hpcllp.com

22 Eric J. Enger (*pro hac vice*)

23 eenger@hpcllp.com

24 Nathan J. Davis (*pro hac vice*)

25 ndavis@hpcllp.com

26 HEIM, PAYNE & CHORUSH, L.L.P.

27 600 Travis, Suite 6710

Houston, Texas 77002

Tel: (713) 221-2000

Douglas R. Wilson

dwilson@hpcllp.com

HEIM, PAYNE & CHORUSH, L.L.P.

9442 Capital of Texas Highway North

Plaza 1, Suite 500-146

Austin, Texas 78759

Tel: (512) 343-3622

25 *Attorneys for Plaintiff Interval Licensing LLC*

1 /s/ Cortney S. Alexander (with permission)

2 Gerald F. Ivey (*pro hac vice*)

3 gerald.ivey@finnegan.com

4 Robert L. Burns (*pro hac vice*)

5 robert.burns@finnegan.com

6 Elliot C. Cook (*pro hac vice*)

7 elliot.cook@finnegan.com

8 FINNEGAN, HENDERSON, FARABOW,

9 GARRETT & DUNNER, LLP

10 901 New York Avenue, N.W.

11 Washington, D.C. 20001-4413

12 Tel: (202) 408-4000

13 Robert L. Burns (*pro hac vice*)

14 robert.burns@finnegan.com

15 Elliot C. Cook (*pro hac vice*)

16 elliot.cook@finnegan.com

17 FINNEGAN, HENDERSON, FARABOW,

18 GARRETT & DUNNER, LLP

19 11955 Freedom Drive

20 Reston, Virginia 20190-5675

21 Tel: (571) 230-2700

22 Cortney S. Alexander (*pro hac vice*)

23 cortney.alexander@finnegan.com

24 FINNEGAN, HENDERSON, FARABOW,

25 GARRETT & DUNNER, LLP

26 3500 SunTrust Plaza

27 303 Peachtree Street, NE

JOINT STATUS REPORT

(2:10-cv-01385-MJP – LEAD CASE)

Molly A. Terwilliger, WSBA No. 28449

mollyt@summitlaw.com

SUMMIT LAW GROUP PLLC

315 Fifth Avenue S., Suite 1000

Seattle, Washington 98104

Tel: (206) 676-7000

Attorneys for Defendant AOL Inc.

1 /s/ Brian M. Berliner (with permission)

2 Brian M. Berliner (*pro hac vice*)
bberliner@omm.com
3 Neil L. Yang (*pro hac vice*)
nyang@omm.com
4 O'MELVENY & MYERS LLP
400 South Hope Street
5 Los Angeles, California 90071
Tel: (213) 430-6000

Scott T. Wilsdon, WSBA No. 20608
wilsdon@yarmuth.com
Jeremy E. Roller, WSBA No. 32021
jroller@yarmuth.com
YARMUTH WILSDON CALFO PLLC
818 Stewart Street, Suite 1400
Seattle, Washington 98101
Tel: (206) 516-3800

6 George A. Riley (*pro hac vice*)
griley@omm.com
7 David S. Almeling (*pro hac vice*)
dalmeling@omm.com
9 O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
10 San Francisco, California 94111
Tel: (415) 984-8700

12 *Attorneys for Defendant Apple Inc.*

14 /s/ Kristin L. Cleveland

15 J. Christopher Carraway, WSBA No. 37944
chris.carraway@klarquist.com
16 Kristin L. Cleveland (*pro hac vice*)
kristin.cleveland@klarqusit.com
17 Klaus H. Hamm (*pro hac vice*)
klaus.hamm@klarquist.com
18 Derrick W. Toddy (*pro hac vice*)
derrick.toddy@klarquist.com
19 John D. Vandenberg, WSBA No. 38445
john.vandenberg@klarquist.com
20 KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
21 Portland, Oregon 97204
22 Tel: (503) 595-5300

Christopher T. Wion, WSBA No. 33207
chrisw@dhlt.com
Arthur W. Harrigan, Jr., WSBA No. 1751
arthurh@dhlt.com
DANIELSON HARRIGAN LEYH &
TOLLEFSON LLP
999 Third Avenue, Suite 4400
Seattle, Washington 98104
Tel: (206) 623-1700

23 *Attorneys for Defendants eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc.*

1 Michael G. Rhodes (*pro hac vice*)
2 mrhodes@cooley.com
3 COOLEY LLP
4 101 California St., 5th Floor
5 San Francisco, California 94111
6 Tel: (415) 693-2000

7 Heidi L. Keefe (*pro hac vice*)
8 hkeefe@cooley.com
9 Mark R. Weinstein (*pro hac vice*)
10 mweinstein@cooley.com
11 Sudhir A. Pala (*pro hac vice*)
12 spala@cooley.com
13 Elizabeth L. Stameshkin (*pro hac vice*)
14 lstameshkin@cooley.com
15 COOLEY LLP
16 3175 Hanover St.
17 Palo Alto, California 94304
18 Tel: (650) 843-5000

19 /s/ Christopher Durbin (with permission)
20 Christopher B. Durbin, WSBA No. 41159
21 cdurbin@cooley.com
22 COOLEY LLP
23 719 Second Avenue, Suite 900
24 Seattle, Washington 98104
25 Tel: (206) 452-8700

26 *Attorneys for Defendant Facebook, Inc.*

1 Kevin X. McGann - (212) 819-8312
(*pro hac vice*)
2 kmcgann@whitecase.com
3 Dimitrios T. Drivas - (212) 819-8286
(*pro hac vice*)
4 ddrivas@whitecase.com
5 John Handy - (212) 819-8790 (*pro hac vice*)
jhandy@whitecase.com
6 Aaron Chase - (212) 819-2516 (*pro hac vice*)
achase@whitecase.com
7 WHITE & CASE LLP
1155 Avenue of the Americas
8 New York, New York 10036

9 Warren S. Heit - (650) 213-0321
(*pro hac vice*)
10 wheit@whitecase.com
11 Wendi Schepler - (650) 213-0323
(*pro hac vice*)
12 wschepler@whitecase.com
13 WHITE & CASE LLP
14 3000 El Camino Real
Building 5, 9th Floor
Palo Alto, California 94306

15
16 *Attorneys for Defendants Google Inc. and YouTube, LLC*

17 John S. Letchinger (*pro hac vice*)
18 letchinger@wildman.com
19 Douglas S. Rupert (*pro hac vice*)
rupert@wildman.com
20 WILDMAN, HARROLD, ALLEN & DIXON
LLP
21 225 West Wacker Drive, Suite 2800
Chicago, Illinois 60606
Tel: (312) 201-2698

22 Jeffrey D. Neumeyer, WSBA No. 35183
23 JeffNeumeyer@OfficeMax.com
24 OfficeMax Incorporated
1111 West Jefferson Street, Suite 510
25 Boise, Idaho 83702
Tel: (208) 388-4177

26
27 *Attorneys for Defendant OfficeMax Incorporated*

JOINT STATUS REPORT
(2:10-cv-01385-MJP – LEAD CASE)

1 Michael A. Jacobs (*pro hac vice*)
mjacobs@mofo.com
2 Matthew I. Kreeger (*pro hac vice*)
mkreeger@mofo.com
3 Richard S.J. Hung (*pro hac vice*)
rhung@mofo.com
4 Francis Ho (*pro hac vice*)
fho@mofo.com
5 Eric W. Ow (*pro hac vice*)
eow@mofo.com
6 MORRISON & FOERSTER LLP
7 425 Market Street
8 San Francisco, California 94105
Tel: (415) 268-7000

/s/ Mark P. Walters (with permission)
Mark P. Walters, WSBA No. 30819
mwalters@flhlaw.com
Dario A. Machleidt, WSBA No. 41860
dmachleidt@flhlaw.com
FROMMER LAWRENCE & HAUG LLP
1191 Second Avenue Suite 2000
Seattle, Washington 98101
Tel: (206) 336-5684

9 *Attorneys for Defendant Yahoo! Inc.*

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

JOINT STATUS REPORT
(2:10-cv-01385-MJP – LEAD CASE)

- 7 -

KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, OR 97204
Tel: (503) 595-5300; Fax: (503) 595-5301

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing on all counsel who are deemed to have consented to electronic service.

By: /s/ Kristin Cleveland
KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301
E-mail: kristin.cleveland@clarquist.com